UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1998/SR.7
9 September 1998

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eighteenth session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 30 April 1998, at 10 a.m.

Chairperson: Mr. ALSTON

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Nigeria (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.98-15926 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS (agenda item 6) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Nigeria (E/1990/5/Add.31; E/C.12/Q/NIGERIA/1; E/C.12/A/NIGERIA/1; revised text of the initial report of Nigeria (document distributed without a symbol in English only) (continued)

1. The Chairperson invited the members of the Nigerian delegation to resume their places at the Committee table and to reply to the questions left over from the previous meeting.

2. Mr. OSAH (Nigeria) said, with regard to the rule of law, that although the military Government had in fact brought about the separation of the executive and legislative branches, it had not touched the prerogatives of the judiciary. The successive military Governments had all suspended some articles of the Constitution, but never the provisions on the functions of the courts and fundamental human rights. Judges enjoyed a high degree of independence, and the current Government had dealt with the issues of judges' term of office and their conditions of employment. The retirement age for judges had been raised from 65 to 70 years, their salaries had been considerably increased and they now received official housing and vehicles.

3. As to corruption, it was not to be found solely in the judicial system, and not in Nigeria alone. Being aware of the problem, the current administration had set up a committee, headed by a retired Supreme Court judge, a number of whose recommendations the Government had already applied, such as those on judges' term of office and salaries. No judge had ever been removed from office, and the independence of the judiciary was a reality. As to the "ouster clauses", they had not prevented the courts from ruling on the issue on many occasions.

4. With regard to the right to just and favourable conditions of work, the minimum wage, previously 250 naira, had been revised upwards. The amount was certainly inadequate in relation to the cost of living, but some workers enjoyed various additional benefits, such as an official car and housing, free medical services, transport services and a housing allowance. The Government felt that that system of additional benefits was preferable to wage increases, which would have encouraged inflation. The working week was 40 hours, and under the law a worker was entitled to 21 to 31 days of paid annual leave and 12 weeks of paid maternity leave.

5. At both the federal and the State level there was a civil service statute regulating the employment conditions of civil servants. Anyone believing that the statute had been violated was entitled to bring the matter before the courts, which had often ordered employers to reinstate dismissed workers and pay them back wages. The statute protected workers against

wrongful dismissal, and arbitration panels had been established to settle labour disputes. As to social security, it was guaranteed by law, and there was a pension fund for both public and private sector workers.

6. The CHAIRPERSON said the Nigerian delegation was responding to the specific questions raised at the previous meeting with generalities. What the Committee needed in order to form an opinion was facts and figures, such as the number of workers not covered by the pension plan.

7. Mr. GRISSA noted with regret that there was little solid information either in the reports or in the replies. If, as the delegation maintained, some of the figures in the report were wrong, such as the minimum wage, the Committee ought to be told what the correct figures were. The conditions for a fruitful dialogue between the Committee and the delegation had clearly not been met.

8. Mr. OSAH (Nigeria) said that the minimum wage had been increased to 1,200 naira, which might still appear low, but that the additional benefits for workers should also be taken into consideration.

9. The CHAIRPERSON said he would like the delegation to specify the total active working population in Nigeria and the percentage of workers enjoying the benefits in question.

10. Mr. OSAH (Nigeria) said he did not have those figures, but confirmed that all State employees received the benefits, including the right to free housing or a housing allowance, based on their level of employment.

11. Mr. GRISSA said he found it difficult to believe that all Nigerian workers enjoyed such benefits. Did workers receiving the minimum wage also really have the right to free housing?

12. The CHAIRPERSON asked what the percentage of State employees was in the active population.

13. Mr. AHMED (Nigeria) said his delegation did not have the relevant statistics, but owing to the structural adjustment programmes advocated by the International Monetary Fund (IMF), the number of public sector workers was steadily dropping. At the present time, most people worked in the private sector, where conditions of employment were negotiated between management and staff without any intervention by the State.

14. Mr. TEXIER said that the replies were anything but satisfactory, and that, specifically, the Committee wished to know how workers in the private sector survived on wages which everyone agreed were only one tenth of the amount needed to meet a family's needs. How could anyone talk about negotiation if, whenever a trade union called a strike or took a position that did not please the authorities, its executive council was dissolved and replaced by a sole administrator? What had become of the two imprisoned trade union executives? Why had they been detained, and why had they still not been tried? What were they accused of? The Committee expected specific answers and not vague talk.

15. Mr. WIMER said he also would like an answer to the question about the fate of the two trade union executives being held without trial following a strike in the oil industry, and wondered whether it was possible in the circumstances to talk of the rule of law and independence of the judiciary.

16. Mr. OSAH (Nigeria) said that the two trade unionists had been working in the oil industry, which, under the 1976 Trade Dispute Act, was considered to be an essential service. The strike called by the two trade unions, the National Union of Petroleum and Natural Gas (NUPENG) and the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN), had therefore been completely illegal. Furthermore, the representatives of NUPENG had failed to appear before the arbitration panel as required by law. The function of trade unions was to defend workers' interests and not to make political demands. In any case, Nigeria was not the only country in the world to dissolve organizations that endangered the fabric of society. The strike had in fact paralysed the entire oil industry for several weeks, and if the Government had failed to act, the entire economy would have collapsed. The two trade unionists had been arrested under Decree No. 2 of 1984, which authorized the Government to detain any person whose conduct was considered to endanger public order. It should be stressed that following the United Nations fact-finding missions, an amendment had been made to that decree calling for periodic reviews to determine whether detainees being held under it still constituted a threat to society. Thus, the status of the two trade unionists was periodically reviewed by a commission headed by the Administrator-General of the police.

17. The CHAIRPERSON said he concluded that the trade unionists had not been charged, tried or convicted.

18. Mr. GRISSA said that despite its economic importance, the oil industry in Nigeria was not an essential service and that the detention of strikers on that account was not justified.

19. Mr. TEXIER said that the restrictions on the right to strike were clearly spelt out in international law, and that to prohibit a strike in a sector such as the oil industry was unacceptable. There were indeed other countries whose Governments did not hesitate to dissolve trade unions, but they were certainly not a model to be followed, and he wished to know whether the Nigerian Government had ever considered the possibility of resolving labour disputes through negotiation.

20. Mr. AHMED (Nigeria), returning to the reasons for the arrest of the two trade union executives, said that during the strike by the oil industry workers in Lagos and Ibadan, Mr. Kokori, who was not actually a trade unionist but simply an employee of the NUPENG trade union, had disappeared for a week. During that time, the Government had attempted to negotiate with the trade unions, which had in the end refused to call a halt to the strike as long as their political demand, the release of Mr. Abiola, was not met. There had been no arrests before the tenth day of the dispute, when 13 people had been placed in detention. After examination of the matter in court, 12 of them had been released, and only Mr. Kokori had remained in prison, for reasons totally unrelated to trade union activities. As to Mr. Dabibi, he had been arrested

in 1996 upon his return from abroad, for attempting to destabilize the then Government, which had also had nothing to do with trade union activities.

21. The executive councils of the two trade unions had been dissolved because their leaders had fled and the gap had somehow to be filled. Neither of the unions had been dissolved and they were currently carrying on their activities in completely normal fashion like other labour organizations. They had organized another strike in November 1997, which had been settled through negotiation.

22. Mr. OSAH (Nigeria) said that the Government had had to react, as the strike that had been called by the two unions constituted a clear violation of the Trade Dispute Act, whether or not that Act was in conformity with the relevant international instruments.

23. The CHAIRPERSON said that the representative of the International Labour Organization (ILO) would be asked to comment on the issue later and invited the members of the Committee to turn to article 9 of the Covenant.

24. Mrs. JIMENEZ BUTRAGUEÑO said it was difficult to form an exact idea of the social security situation in Nigeria on the basis of the information provided by the Government and asked for clarification on a number of points. She wished first of all to know whether there were groups of the population not covered by social security, in particular, persons working in enterprises with fewer than five employees, farm workers or self-employed workers. Did the Government plan to ratify ILO Conventions Nos. 117 and 102 (paragraph 28 of the list of issues)? Was the retirement age set at 60 for women as well as men? Were additional benefits such as housing assistance still valid upon retirement? And were pensions sufficient to live on in a decent manner? She also wished to have more information on the percentage of over-60s in the total population, the methods of calculating pensions and any differences between the private and public sectors in the deduction of pension contributions. Were disability benefits paid for accidents as well as for illness? Did persons who emigrated have to pay back some of the benefits they had received upon their departure, as paragraph 29 (c) of the revised version of the report seemed to indicate? Were the workmen's compensation funds financed from the 5 per cent of management contributions or separately? Were all insured persons and retirees entitled to medical assistance?

25. Mr. AHMED (Nigeria) said the Government was anxious to guarantee social coverage for as many people as possible through the Social Insurance Trust Fund. In the formal sector of the economy, all enterprises, no matter how many employees they had, had to register with the Fund and pay into it contributions equivalent to 5 per cent of total salaries. In the informal sector, that obligation applied only to firms employing more than five persons, so as not to discourage small family businesses. Nigeria had not yet reached a level of development where all the population were covered by social security, but that was one of the Government's objectives. The Fund took care of pensions, gratuities and other disability and death benefits for retired persons or their spouses, and also covered migrant workers.

26. Mr. OSAH (Nigeria) said he did not have statistics on the percentage of over-60s, but the Government would transmit that information to the Committee

as soon as possible. As to the methods of calculating pensions, public sector enterprises applied different systems. In the civil service, persons reaching retirement age received a capital sum equivalent to two years of their basic salary and a monthly payment representing a third of their salary at the end of their career, up until the time of their death. Retirement age was fixed at 60 across the board. With regard to health benefits in Nigeria, medical consultations were free for the entire population.

27. Mr. CEAUSU said that paragraphs 29 and 30 of the revised version of the report suggested that, in order to benefit from the National Insurance Fund, particularly in cases of disability or illness, people had to have been contributing for at least 10 years. He wished to know whether that was in fact true and asked for clarification of the last sentence in paragraph 30, which read, "Benefits under the scheme are payable one year after cessation of work". Paragraph 31 stated that the 1987 Workmen's Compensation Act applied to all workers earning more than 1,600 naira. What happened to other workers, and who received the pension of a person who died in office (last sentence in paragraph 32)?

28. Mr. RATTRAY asked what the unemployment rate was in Nigeria and whether the unemployed received unemployment benefits and were entitled to social security.

29. Mr. AHMED (Nigeria) said that according to the International Federation of Human Rights, Nigeria was supposed to have expelled half a million migrant workers, Chadians in particular. The ILO had asked the Government to ensure that arrangements were made for them to depart with dignity and that the workers received the final remuneration due them. Many of the Chadians who had been expelled had held residents' permits and paid social security contributions. It would be interesting to have information on those events.

30. The Labour Act obliged the employer to ensure that if an employee fell ill, no matter how long he had been employed, he received the necessary medical care. Similarly, a worker who was the victim of a labour accident had to be compensated under the 1987 Workmen's Compensation Act, no matter how long he had been employed. In the event of death, it was the legal heirs of the deceased person who received part of the pension, in conformity with the legislation and customary law. As stated in paragraph 31 of the revised version of the report, employers had to take out insurance in favour of their workers against injury and death.

31. Mr. OSAH (Nigeria) said that Nigeria would send the Committee information on the unemployment rate and percentage of the population not covered by social security as soon as possible. In Nigeria, the extended family did what it could to help any of its members who were in need. With regard to ILO Conventions Nos. 117 and 102, the Government would make known its intentions in due course. As to the Chadian workers who had returned to their country of origin, they had not been as numerous as had been claimed, and the appropriate arrangements had been made for their reception. Those events had not caused any problems between the two countries, which maintained excellent relations.

32. Mrs. BONOAN-DANDAN said that according to many sources, including the Gender Action Project, the Hosken Report, the United States Department of State and the United Nations Children's Fund (UNICEF) (see document E/C.12/1/NIGERIA/1, Country analysis), the situation of the family, women and children in Nigeria was of great concern. Often the men did not have the financial means to meet the needs of their wives and children, a situation made even worse by polygamy. It was frequently the woman who not only raised her children but also supported her husband. Single women were taxed without consideration being given to any dependent children they might have.

33. Women were also discriminated against in the field of employment. Women police officers who wished to marry, for example, had to request permission from their superiors. As for unmarried women police officers who became pregnant, the regulations called for them to be dismissed. Similarly, Kano State Civil Service Rule No. 03303 stipulated that any civil servant about to undertake a training course of not more than six months had to promise to refund all or part of the cost of the course should it be interrupted because of pregnancy.

34. Early marriages were very common. Girls of 12 were taken out of school to be married, and poor families sold their daughters into marriage in order to increase their income. In some parts of Nigeria, 79 per cent of girls between the ages of 9 and 15 were reportedly married.

35. With regard to domestic violence, section 55 of the Penal Code entitled husbands to beat their wives; violence against women was very common, and the police rarely intervened.

36. The number of young girls who lived in the streets of big cities and were exposed to all dangers, particularly rape, was said to be on the rise. The criminal justice system did not treat rape as a serious matter.

37. With regard to trafficking in women, she would like to know whether it was true that young Nigerian women were taken to Italy and other Western nations, with or without their consent, for purposes of prostitution.

38. According to UNICEF, half of Nigerian women had undergone genital mutilation. The Government had taken no effective steps to combat the practice.

39. In the light of all that information, the question arose as to how Nigeria could claim in its report, which had not been drafted in conformity with the Committee's guidelines, that it was doing everything possible to protect the family and children.

40. Mr. SADI said that Nigeria was an important country because of its size, its population and the role it was called on to play in Africa, to the extent that many observers believed it should hold a permanent seat on the Security Council. Given the situation that had just been depicted with regard to the protection of the family, women and children, Nigeria clearly still had a long way to go if it was to meet the expectations placed in it.

41. Mrs. JIMENEZ BUTRAGUEÑO asked what the Government was doing to improve the situation of children, particularly abandoned and ill-treated children and street children.

42. Mr. OSAH (Nigeria) said that some discriminatory practices against women and children did indeed persist in various parts of the country, but that the Government's policy was to discourage them and it was even attempting to eliminate some of them in response to public opinion.

43. Accordingly, a committee had been set up to compile all the laws on children and youth that were in force at the federal or regional level in Nigeria and to determine the extent to which they complied with the conventions of the United Nations and the Organization of African Unity (OAU) on the rights of the child. That should lead to the drafting of a code in keeping with the relevant international instruments.

44. With regard to early marriages, the draft federal decree on children and youth would contain a provision establishing a minimum legal age for marriage. Although an attempt was being made to align that age with the provisions of the relevant United Nations and OAU conventions, the opinions of the various ethnic and cultural groups comprising Nigerian society had to be taken into account in order to avoid going against the feelings of any of them by setting the age either too high or too low.

45. The Ministry of Women's Affairs was dealing with several of the problems referred to concerning women. The Government was resolved to put an end to female genital mutilation, and the draft decree on that question expressly prohibited the practice. Its implementation would, however, involve overcoming certain financial obstacles as well as the opposition of groups of people who, for cultural reasons, practised what in Nigeria was called female circumcision, a practice which had not been any more controversial than male circumcision until a number of international organizations had started talking about it some 10 years earlier and calling it mutilation.

46. Rape did of course constitute a crime in Nigeria, and although problems arose with regard to implementation of the law, the Government would attempt to remedy the situation.

47. The Government recognized the existence of trafficking in Nigerian women to Europe, and to Italy in particular, for purposes of prostitution, but planned to take the appropriate action to put an end to the practice.

48. With regard to domestic violence, traditional African society gave a man the right to administer corporal punishment to his wife, but there again, it was not government policy to encourage such practices, and if the punishment went beyond a certain limit, the man was liable to criminal proceedings for assault and battery. Battered women in Nigeria could file a complaint with the competent department of the Ministry of Women's Affairs, which normally took appropriate action.

49. Arranged marriages and the large dowry asked of the bride's parents were two other questions involving African traditions and culture which could be discussed ad infinitum. According to the African way of thinking, it was not

just two individuals who were marrying, but two families, which was why parents were anxious to find out about the origins and background of the potential spouse. That was all done in order to ensure the stability and success of the marriage, and it should be stressed that 99 per cent of arranged marriages were successful. Once again, it was not government policy to encourage that type of marriage, and with further development and better education for young people, the practice should eventually die out. It was not in all regions of Nigeria that a large dowry was required of the bride's parents; in some it was very modest, and what mattered was to obtain the family's consent. That was another area in which it was difficult to legislate; even if a ceiling were set, it would be difficult to enforce. But it could be expected that as young girls received more education, they would end up opposing such practices, which in any event the Government did not encourage.

50. It was true that women police officers had to get permission from the authorities before marrying. That provision, which dated back to colonial times, existed for security reasons; it was necessary to check whether the potential spouse had a criminal record or, if he was a foreigner, whether he represented a risk to national security. Similar provisions existed in various government services in Nigeria, and no doubt elsewhere in the world. As to the dismissal of unmarried women officers who were pregnant, the provision was based on considerations of morality and religion.

51. Mr. AHMED (Nigeria) said that most of the topics raised were related to the culture of specific groups of the population, and that the Government could not be expected to attempt to eliminate certain practices which were culturally or religiously motivated. On the contrary, it was anxious to protect the different cultures coexisting in Nigeria while at the same time ensuring appropriate development. If in some groups girls were married at puberty, it was in order to protect them morally and did not stop them from going to school in order to get an education. Different communities, tribes and groups accepted and understood that state of affairs, which was an integral part of the culture. Traditions and cultures must be respected insofar as they were part of the normal life of the population groups concerned.

52. Mrs. BONOAN-DANDAN said that it was not the Committee's mandate to evaluate cultural practices and pass judgement on them, but rather to determine whether a State party to the Covenant was conforming with the obligations it had entered into. Evidently the provisions of articles 2 and 10 were violated in Nigeria, as the Nigerian delegation itself had admitted, contenting itself with excusing such violations on cultural and religious grounds. Under the circumstances, it was reasonable to ask why Nigeria had bothered to undertake those obligations, as it was attempting to justify all those practices on cultural grounds, whereas some of them were completely unacceptable, particularly the fact that the Penal Code allowed husbands to administer corporal punishment to their wives, or the fact that, in violation of article 10, young girls or even little girls were allowed to be married without their consent.

53. Mr. WIMER said he agreed with Mrs. Bonoan-Dandan that it was not the Committee's task to pass judgement on Nigerian customs or its Government, but

solely to determine whether the Government was respecting the obligations which it had freely entered into. The discussion made it clear that the Covenant was being violated in Nigeria.

54. With regard to female genital mutilation, he said that if the term had replaced the expression "female circumcision" used previously, it was for technical reasons, as "mutilation" encompassed different types of operations and excision was a clear case of mutilation. It was true that international organizations had been discussing the matter for only 10 years or so, but that was because until then nothing or very little had been known about the problem. The extent of it seemed considerable, as according to various sources between 50 and 60 per cent of Nigerian women were subjected to such mutilation. If the Government was anxious to combat the practice, it should start by compiling statistics on it.

55. Mrs. JIMENEZ BUTRAGUEÑO said she found some of the delegation's statements rather strange, particularly the equation of female and male circumcision, as the latter had certain advantages in terms of health and was quite common, even apart from religious considerations, whereas the former, in addition to the health risks linked to the poor conditions in which it was carried out, which could lead even to sterility, also entailed mutilation and a loss of sexuality. In fact it was a case of horrifying discrimination against women.

56. The CHAIRPERSON said that in the early 1980s, the World Health Organization had concluded that female circumcision seemed to constitute a major health risk, regardless of the conditions under which it was practised, which was not the general rule with regard to male circumcision.

57. Mr. OSAH (Nigeria) said that the violations of the rights enshrined in the Covenant which occurred in Nigeria were the work of individuals and did not result from a deliberate government policy; on the contrary, the Government had established a mechanism for reviewing the laws in order to harmonize them and had taken steps to combat some of those practices. That undertaking, however, required time, education to raise the awareness of the population and, possibly, international cooperation. In Nigeria, no law and no provision of any sort favoured those practices and, in its efforts to put an end to them, the Government would take the fullest possible account of the pertinent observations by the members of the Committee.

58. The CHAIRPERSON said that, in ratifying the Covenant, a State party committed itself under article 2 to take all the necessary steps - which for a Government meant both to refrain from introducing laws violating the Covenant and to take all the necessary measures, and not simply legal measures, to put an end to any violations. A Government could not simply state that it did not consider itself guilty of violations; it had to go further and give the assurance that it would actively undertake to put an end to all violations brought to its attention.

The meeting rose at 1 p.m.